

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2757

PETITION OF JANE R. FENTON

OPINION OF THE BOARD

(Opinion Adopted January 13, 2010)
(Effective Date of Opinion: March 18, 2010)

Case No. S-2757 is an application for a special exception to permit an accessory apartment, pursuant to section 59-G-2.00 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on December 14, 2009, closed the record in the case on December 21, 2009, and on December 23, 2009 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 43; Block B2, located at 5210 Wyoming Road, Bethesda, Maryland, 20816, in the R-90 Zone.

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 13, 2010. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Petitioner is bound by her testimony and exhibits of record, and by the representations of counsel identified in the Hearing Examiner's Report and in the Board's Opinion;
2. The Petitioner must take the following steps to comply with the conditions set forth in the December 3, 2009 memorandum of Unray Peters, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14), as she testified she has already done:

- a. The middle room cannot be used for sleeping unless the window is brought up to fire code egress standards.
 - b. The window air conditioning in middle must be individually wired to meet code standards.
 - c. Must install single cylinder deadbolts (key operated from exterior- thumb turn from the inside) to doors leading to exterior of property.
 - d. Cease and desist storing flammables adjacent to the brick fire place in the living room.
 - e. Repair inoperable burner on stove.(right rear).
3. Based on habitable space in the apartment (688 square feet), no more than two unrelated persons or a family of up to three may reside in the accessory apartment;
 4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
 6. Petitioner must make at least one of the off-street parking spaces on her property available to the accessory apartment tenant; and
 7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

Therefore, on a motion by David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Stanley B. Boyd, Walter S. Booth and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 18th day of March, 2010.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.